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12 CORPORATION

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 RYAN STEPHENS, individually and on
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 CAPITAL ONE FINANCIAL
21 CORPORATION,

22 Defendant.

23 Case No.

24 **NOTICE OF REMOVAL OF
25 ACTION TO THE UNITED
26 STATES DISTRICT COURT
27 FOR THE NORTHERN
28 DISTRICT OF CALIFORNIA
UNDER 28 U.S.C. § 1441(a), 28
U.S.C. § 1331 (FEDERAL
QUESTION)**

29 [Contra Costa County Superior
30 Court, Case No. CIVMSC21-02397]

31 Complaint Filed: 11/19/2021

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
2 **THE NORTHERN DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE THAT** Defendant Capital One Financial
4 Corporation (“Capital One”), hereby invokes this Court’s jurisdiction under the
5 provision of 28 U.S.C. § 1441(a), 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a), and
6 removes this action from state court to federal court pursuant to 28 U.S.C. § 1446(b).

7 **A. JURISDICTION**

8 1. Capital One specifically alleges that this Court has federal question
9 jurisdiction over this action pursuant to 28 U.S.C. §§ 1441(a) and 28 U.S.C. § 1331
10 because Plaintiff Ryan Stephens (“Plaintiff”) alleges a cause of action arising under
11 the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.* Further, the Court
12 has supplemental jurisdiction over any state law cause of action alleged in the
13 Complaint pursuant to 28 U.S.C. § 1367(a).

14 **B. STATEMENT OF THE CASE**

15 2. On November 19, 2021, Plaintiff filed a Complaint in the Northern
16 District, Contra Costa County Superior Court, State of California, designated as Case
17 No. CIVMSC21-02397 (the “Action”). Pursuant to 28 U.S.C. § 1446(a), true and
18 correct copies of all process, pleadings, and orders served upon Capital One in the
19 Action are attached hereto as *Exhibit A*.

20 3. Plaintiff asserts three (3) causes of action in his Complaint against
21 Capital One, for alleged violations of the: (1) Fair Credit Reporting Act (“FCRA”), 15
22 U.S.C. §§ 1681, *et seq.*; (2) California Consumer Credit Reporting Agencies Act
23 (“CCRAA”), Cal. Civ. Code §§ 1785.1, *et seq.*; and (3) California Unfair Competition
24 Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.*

25 **C. BASIS FOR REMOVAL**

26 4. This Court has jurisdiction over this Action pursuant to 28 U.S.C. §
27 1331, because Plaintiff alleges that purported conduct of Capital One entitles Plaintiff
28 to an award of damages under the FCRA, which is a law of the United States.

1 5. Specifically, Plaintiff's Complaint alleges that Capital One violated the
 2 FCRA because it performed a full credit inquiry as to Plaintiff, when Plaintiff had
 3 only consented to a soft credit pull inquiry. Compl., ¶¶ 55-60, 90-98.

4 6. Additionally, this Court has supplemental jurisdiction over the remaining
 5 state law claims, because they "form part of the same case or controversy." 28 U.S.C.
 6 § 1337(a). A state claim is part of the same case or controversy if it shares a "common
 7 nucleus of operative fact" with the federal claim, and if they would normally be tried
 8 together. *See, e.g., Trustees of the Constr. Indus. & Laborers Health & Welfare Trust*
 9 *v. Desert Valley Landscape Maint., Inc.*, 333 F. 3d 923, 925 (9th Cir. 2003). Here,
 10 Plaintiff's claims for violations of the CCRAA and UCL are based on the same
 11 factual allegations as her claims for violation of the FCRA. Compl., ¶¶ 99-115. The
 12 Court should therefore extend supplemental jurisdiction over Plaintiff's state law
 13 claims.

14 **D. ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN**
 15 **SATISFIED**

16 5. Removal of this action is timely. Capital One executed and returned a
 17 Notice and Acknowledgement of Receipt of the Summons and Complaint in this
 18 action on December 8, 2021. Service upon Capital One was thus deemed complete on
 19 December 8, 2021. Cal. Civ. Proc. Code § 415.30(c). This Notice of Removal is
 20 "filed within thirty [30] days after receipt by the defendant . . . of a copy of [the
 21 Summons and Complaint]," in accordance with the time period mandated by 28
 22 U.S.C. section 1446(b).

23 7. Capital One is the only named Defendant in the action and therefore no
 24 consent of additional parties is required.

25 8. Venue lies in the United States District Court for the Northern District of
 26 California pursuant to 28 U.S.C. § 1441(a) because the Action was filed in this
 27 District.

28

1 9. As stated above, pursuant to 28 U.S.C. § 1446(a), a true and correct copy
2 of all process, pleadings and orders in this Action is attached hereto as Exhibit A.

3 10. Written notice of the filing of this Notice of Removal will be promptly
4 served upon Plaintiff. Capital One will also promptly file a copy of this Notice with
5 the Clerk of the Superior Court of California, County of Contra Costa.

6 **WHEREFORE** Capital One prays that the above Action now pending against
7 it in the Superior Court of the State of California, County of Contra Costa, be
8 removed therefrom to this Court.

9
10 DATED: January 6, 2022

11
12 DOLL AMIR & ELEY LLP

13 By: /s/ Connie Y. Tcheng

14 HUNTER R. ELEY
15 CONNIE Y. TCHENG
16 Attorneys for Defendant,
17 CAPITAL ONE FINANCIAL
18 CORPORATION

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